

REMARKS

Entry of the foregoing, re-examination and reconsideration of the application identified in caption, as amended, pursuant to and consistent with 37 C.F.R. §1.112 and in light of the remarks which follow are respectfully requested.

As correctly indicated in the Office Action summary, Claims 1-15 and 79-99 are pending. The Office Action Summary further indicates that Claims 1-15 and 79-99 are rejected. By the present amendment, Claims 1, 83, 93 and 94 and have been amended to place them in better form. Thus, support for these amendments can be found at least in the specification and the original Claims as filed. Respectfully, no new matter has been added by these amendments.

The above amendments have been presented solely for the purpose of expediting what appears to be allowable subject matter. Applicants reserve the right to file a continuation application directed to the originally presented claims.

As required, attached hereto is an appendix illustrating the amendments made above. Entry of the above amendments is earnestly requested.

I. SUPPLEMENTAL DECLARATION

The Examiner states that a supplement declaration identifying a specific error being corrected must still be filed. Respectfully, Applicants disagree that a supplemental declaration is required.

In the original reissue Declaration, Applicants noted that the specific error was that patentee claimed less than they had a right to claim. In particular, Applicants failed to present claims drawn to a liposome as described in Claim 32 shown in the Declaration. In this regard, a review of the claims that Applicants failed to present shows that specifically Applicants failed to present claims where Y could be H (hydrogen) or an alkyl chain with 1-10 carbons. As such, a simple review of the original Declaration quickly and easily shows the specific error being relied upon for filing the present reissue application.

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw this objection.

II. THE REJECTION OF CLAIMS 1-15 AND 79-99 UNDER 35 U.S.C. §1.112, second paragraph

Claims 1-15 and 79-99 were rejected under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Respectfully, Applicants traverse this rejection.

The Examiner notes that Claim 1 does not change the range of carbon atoms for R² in the fourth line from the end. In response, Applicants have made the appropriate correction.

The amendment to Claim 1 regarding R² is made to correct an error in the minimum number of carbon atoms that can be in the alkenyl or alkynyl group in the definition of R². Claim 1 in the instant patent recites that R² can be "an alkenyl or alkynyl group having from 1 to 23 carbon atoms in the aliphatic chain." (See column 25, lines 37-39.) However, to one skilled in the art, it was apparent that an alkenyl or alkynyl group cannot have only 1 carbon atom because there must be at least C=C or C≡C in the alkenyl or alkynyl group, respectively. The amendment to claim 1 related to R² is aimed at correcting this error by making the minimum number of carbon atoms to be 2 in the alkenyl or alkynyl group for R². Applicants submit that this amendment would not narrow the scope of the amended claim limitation because, to a person of ordinary skill in the art, the scope of "an alkenyl or alkynyl group having from 2 to 23 carbon atoms in the aliphatic chain" is not narrower than "an alkenyl or alkynyl group having from 1 to 23 carbon atoms in the aliphatic chain" based on the person's understanding of organic chemistry.

The Examiner also notes that Claim 83 does not further limit Claim 1. In response, Applicants have amended Claim 1 to recite specific alkyl groups. Support for this amendment is found at least in original Claim 1.

Finally, the Examiner notes that Claim 93 lacks proper antecedent basis. In response, Applicants have amended Claims 93 and 94 to provide proper antecedent basis. Support for this amendment is found in the original Claims and at column 2, lines 64-65 and column 3, lines 13-14.

The Examiner's courtesy is appreciated in pointing out the above points. Since Claims 1, 83, 93 and 94 have been amended to place the claims in better form, Applicants submit that this rejection has been obviated. Therefore, Applicants respectfully request withdrawal of this rejection.

CONCLUSION

From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order, and such action is earnestly solicited.

If there are any questions concerning this paper or the application in general, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

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Limited Recognition Under 37 C.F.R. §10.9(b)
(See Attached Document)

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